

**REPORT - PLANNING COMMISSION MEETING
November 17, 2005**

Project Name and Number: Bell Manor Project (PLN2005-00155)

Applicant: Richard Shwe

Proposal: To consider a General Plan amendment to change the land use designation of two (2) parcels of land totaling 0.86 acres from Medium Density Residential 18-23 du/ac to High Density Residential 23-27 du/ac and a rezoning of the site from R-G-24, Garden Apartment Residence District to R-3-27, Multi-Family Residence District.

Recommended Action: Recommend to the City Council as proposed.

Location: 38853 & 38871 Bell Street, in the Central Planning Area

Assessor Parcel Number(s): APN: 501-093001800 and 501-093001900

Area: 0.86 acres

Owner: Richard Shwe

Agent of Applicant: Steve Yang, Steve Yang & Associates

Consultant(s): Steve Yang, Steve Yang & Associates

Environmental Review: A Mitigated Negative Declaration has been prepared and circulated for this project.

Existing General Plan: Medium Density Residential 18-23 dwelling units per acre

Existing Zoning: R-G-24, Garden Apartment Residence District

Existing Land Use: Two Single Family dwellings

Public Hearing Notice: Public hearing notification is applicable. A total of 421 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Fremont Boulevard, Bell Street, Mowry Avenue, and Lorren Drive. The notices to owners and occupants were mailed on November 4, 2005. A Public Hearing Notice was delivered to The Argus on October 31, 2005 to be published by November 3, 2005.

Executive Summary: The project consists of a General Plan Amendment and corresponding Rezoning Application to allow for, and to facilitate the development of, a multi-family development with a minimum of 22 dwelling units on a 0.86-acre in-fill site comprised of two parcels. The project site is located one property removed from the intersection of Mowry Avenue and Bell Street, and known municipally as 38853 and 38871 Bell Street. The applicant has specifically requested that the land use designation be changed from Medium Density Residential 18-23 dwelling units per acre (du/ac) to High Density Residential 23-27 du/ac and that the site be rezoned from R-G-24, Garden Apartment Residence District to R-3-27, Multi-Family Residence District. Staff recommends that the Planning Commission recommend the proposed project and accompanying environmental document to the City Council for approval.

Background and Previous Actions: The project site is an in-fill site comprised of two parcels located within a fully developed area. Multi-family developments surround the project site with the exception of the Islander Hotel site which borders the project site to the south. The two (2) parcels comprising the project site are each currently occupied by bungalow dwelling units that are somewhat similar in appearance. A Historical and Architectural Assessment was prepared by Woodruff Minor on behalf of the City in March of 2003 to assess the architectural and historical significant of the two properties. The report assessed the significance of the properties according to the criteria of the California

Register of Historical Resources, the standard for evaluating cultural resources under the California Environmental Quality Act. Based on these criteria, the report concluded that neither property appeared to be eligible for listing on the California Register, even though the subdivision in which they were built is of historical interest locally. The subdivision has lost the integrity of its setting, feeling, and association due to the development that now surrounds the two properties.

In June 2003, the City Council adopted a new multi-family zoning district, the R-3 District, to help guide and streamline the development of multi-family housing. Consistent with the goals and policies of the Housing Element, the intent of the R-3 District is to facilitate and encourage the development of higher density residential projects. The standards adopted for the R-3 district are suitable for in-fill sites and provide applicants with clear standards and direction while also allowing some flexibility. To facilitate high quality development, under the R-3 District all projects are required to receive Site Plan and Architectural Approval (SPAA) through the Finding process by the Planning Commission for all projects of 11 units or more. It should be noted that the applicant is in the early stages of completing the required materials for a Finding for Site Plan and Architecture Approval (SPAA), which indicates that a 23 unit condominium project could potentially be developed, subject to approval of the subject General Plan Amendment and Rezoning Applications.

Staff attempted to include the Islander Hotel and adjacent vacant site (see Existing Zoning Map) into the proposed General Plan Amendment and Rezoning Application in order to provide for a cohesive development and allow all the lands to be developed at the same density range. Staff had a number of discussions with the owner of the Islander Hotel who advised that he did not want his land included as part of the subject project as he did not see any value/benefit in increasing the density on his lands at this point in time. With the owner of the Islander not wanting his lands including within the project, staff advised the owner of the vacant parcel that the City would not be proceeding with the any City initiated General Plan Amendments and Rezoning Application on their parcel.

Project Description: The project is an application for a General Plan Amendment (GPA) to change the land use designation from Medium Density Residential, 18-23 (du/ac), to High Density Residential, 23-27 du/ac and a corresponding Rezoning Application to change the zoning designation from R-G-24 (Garden Apartment Residence District) to R-3-27 (Multi-family Residence District), for two parcels comprising a 0.86-acre project site on Bell Street in the Central Planning Area. The intent of the proposed project as described by the applicant is to provide an opportunity to allow for the development of 23 condominium dwelling units on the project site.

Project Analysis:

General Plan Conformance: The existing General Plan land use designation for the project site is Medium Density Residential 18-23 du/ac. The proposed project, a General Plan Amendment to change the land use designation to High Density Residential, 23-27 du/ac, is consistent with the goals, policies and objectives of the General Plan. Identified below are some of the General Plan Goals and Policies which the proposed project implements:

Housing Goal 3: The proposed General Plan Amendment meets the housing goal which states, "Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City consistent with the Hill Area Initiative of 2002." The proposed project will provide additional housing opportunities. The proposed project has the potential to enhance the existing neighborhood by providing well-designed housing. The proposed project would also be required to meet the City's Inclusionary zoning requirements through the inclusion of at least 15 percent of all residential units of any proposed residential project as Below Market Rate (BMR) units.

Land Use Goal 1.9: The proposed General Plan Amendment is compatible with this land use goal which states, "To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate". Criteria for the location of higher density housing include access to transit, proximity to commercial areas, and proximity to a collector or arterial street. The proposed project is one property removed from Mowry Avenue which is an arterial. Additionally, the proposed project would be appropriate in that it is in very close proximity to transit and commercial area areas (Central Business District).

Land Use Policy LU 1.12: The proposed General Plan Amendment is compatible with this land use policy which states, "To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic". Based on a preliminary plan submitted, it is anticipated that the

open space/play areas would be centrally located, therefore, located away from the main access areas. This General Plan goal could thus be met.

Land Use Policy LU 1.13 and 1.22 The proposed General Plan Amendment is compatible with this land use policy which states, "Buildings shall be designed to provide for maximum visual and auditory privacy for each unit through the use of site design, open space, landscaping and appropriate building materials. Multi-family housing units shall be developed with consideration given to the relationship of adjacent development." Staff concurs with the applicant's opinion that the proposed project would have the potential to meet or implement the General Plan policies for multi-family residential development. These policies would be applied to the future development of the parcel.

Zoning Regulations: The proposed project includes a proposed rezoning to the R-3 Multi-family residential zoning district where any development on this site would be required to comply with the standards and guidelines adopted for the district, as well as all applicable building regulations. Specifically, the proposed rezoning of the project parcel is from R-G-24, Garden Apartment Residence District, to an R-3-27, Multi-family Residence District. The following table represents the lot and siting requirements within the district:

Zoning Lot and Siting Standards R-3-27 District 38853 and 38871 Bell Street	
Maximum Building Height	52 feet
Minimum Lot Size	6,000 square feet
Minimum Lot Width	60 feet
Front Yard Setback	20 feet
Interior and Rear Setbacks	10 feet
Maximum Lot Coverage	50%
Minimum Coverage Open Space	500 square feet for up to 5 units, plus 50 square feet for each additional unit
Minimum Private Open Space	Balconies 60 square feet, Patios 100 square feet

As a multiple family residential use, the project would be consistent with the multi-family residential character of the surrounding neighborhood. Staff anticipates that the approval of the project would facilitate development of the site with a condominium or apartment building designed to be compatible with the surrounding land uses. The surrounding land uses are multi-family residential developments, with the Islander Hotel being the only exception.

Inclusionary Zoning: Any future development on the site would be required to meet the City's Inclusionary zoning requirements through the inclusion of at least 15 percent of all residential units of any proposed residential project as Below Market Rate (BMR) units. The exact number of BMR units for the project parcel will be determined when the Finding for Site Plan and Architectural Approval is considered by the Planning Commission.

Environmental Analysis: An Initial Study and Draft Mitigated Negative Declaration has been prepared for this project. The environmental analysis identified concerns regarding potential impacts to air quality, biological resources, cultural resources, cultural resources, hydrology and water quality, and noise. The Draft Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures will be included as conditions of approval for the Finding for Site Plan and Architectural Approval. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Staff has noticed that within the Biological Section of the Initial Study reference should have been made for the requirement of the preparation of an Arborists Report to evaluate the existing on-site trees. Therefore, staff recommends that the following Mitigation Measure be inserted into the Mitigated Negative Declaration and Mitigation Monitoring Plan "Prior to any development an arborist report shall be prepared to evaluate the existing on-site trees. The Arborists Report shall be submitted with the Finding for Site Plan and Architectural Approval Application. Any tree relocation or removal shall be subject to the review of the City Landscape Architect. The City Landscape Architect shall determine the suitability of the mitigation measures required, if any."

Response from Agencies and Organizations: This project was submitted to the Alameda Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. No comments have been received to date from the Agency.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. The development of a residential project on this parcel will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rate in effect at the time of building permit issuance. The developer will be entitled to a Fee credit for the two dwelling units to be removed.

Enclosures: Initial Study, Draft Mitigation Negative Declaration and Mitigation Monitoring Plan
Applicant's General Plan Amendment Justification Statement (Information)
Conceptual Site Plan (Information)

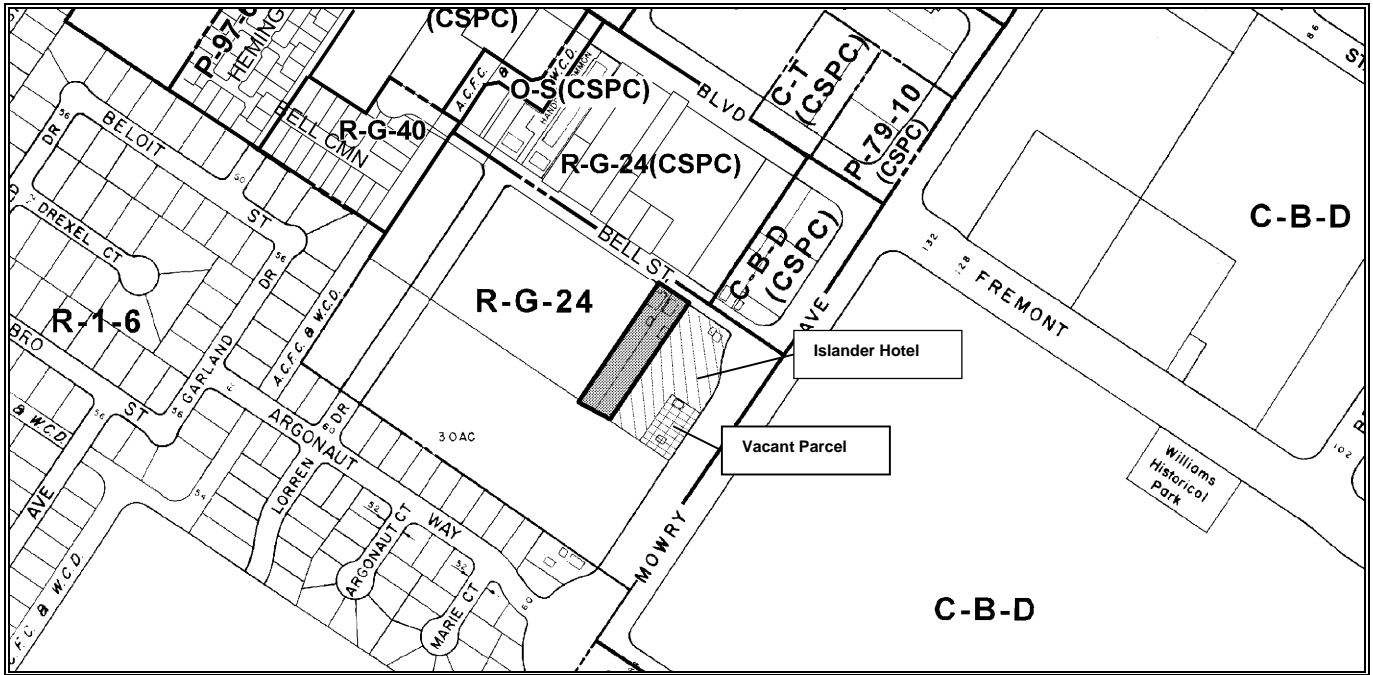
Exhibits: Exhibit "A" "General Plan Amendment Exhibit"
Exhibit "B" "Rezoning Exhibit"
Draft Mitigated Negative Declaration and Mitigation Monitoring Plan

Recommended Actions:

1. Hold public hearing.
2. Staff, recommends that the following Mitigation Measure be inserted into the Mitigated Negative Declaration and Mitigation Monitoring Plan "Prior to any development an arborist report shall be prepared to evaluate the existing on-site trees. The Arborists Report shall be submitted with the Finding for Site Plan and Architectural Approval Application. Any tree relocation or removal shall be subject to the review of the City Landscape Architect. The City Landscape Architect shall determine the suitability of the mitigation measures required, if any."
3. Recommend the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
4. Recommend the City Council approve the Mitigated Negative Declaration finding that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment and further find that this action reflects the independent judgment of the City of Fremont.
5. Recommend to the City Council approval of the Mitigation Monitoring Plan for the project.

6. Recommend that the City Council find PLN2005-00155 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land use and Housing Chapters as enumerated within the staff report.
7. Recommend the City Council approval of PLN2005-00155 to amend the General Plan land use designation for the project in conformance with Exhibit "A" (General Plan Amendment Exhibit)
8. Recommend PLN2005-00155 to the City Council in conformance with Exhibit "B" (Rezoning Exhibit).

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

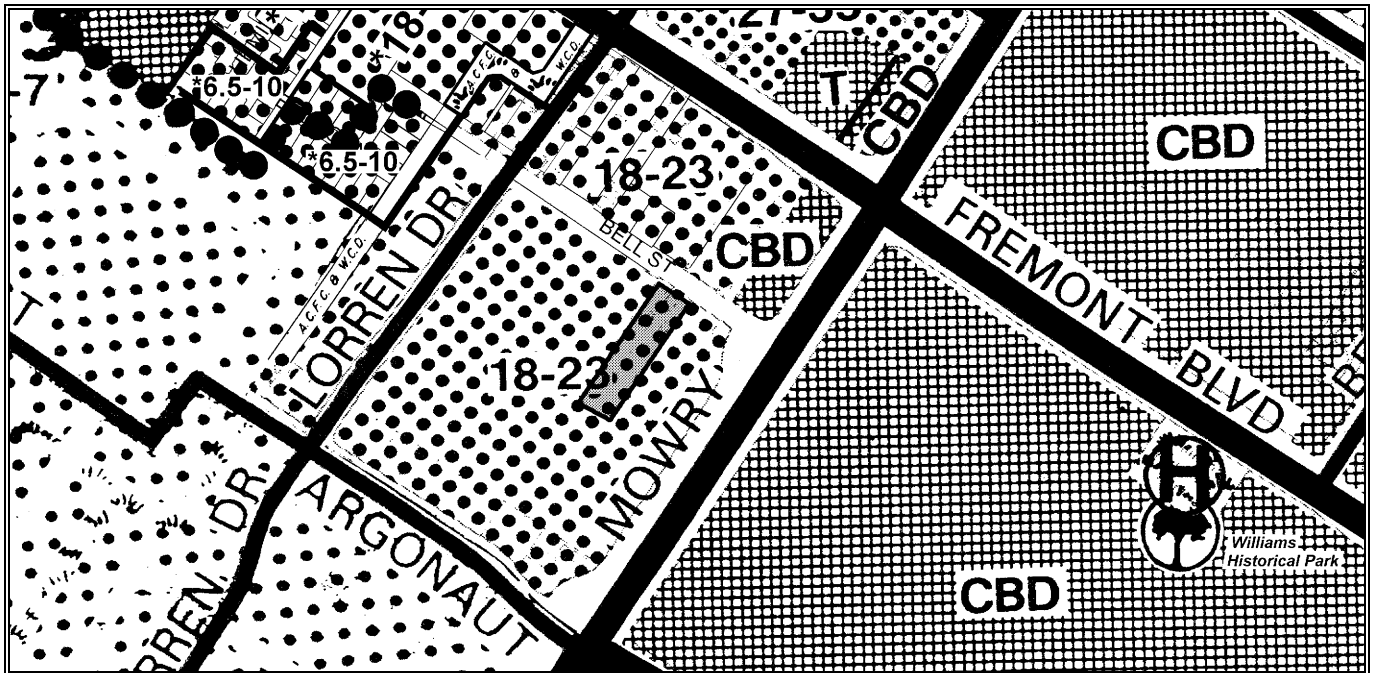


EXHIBIT "A"

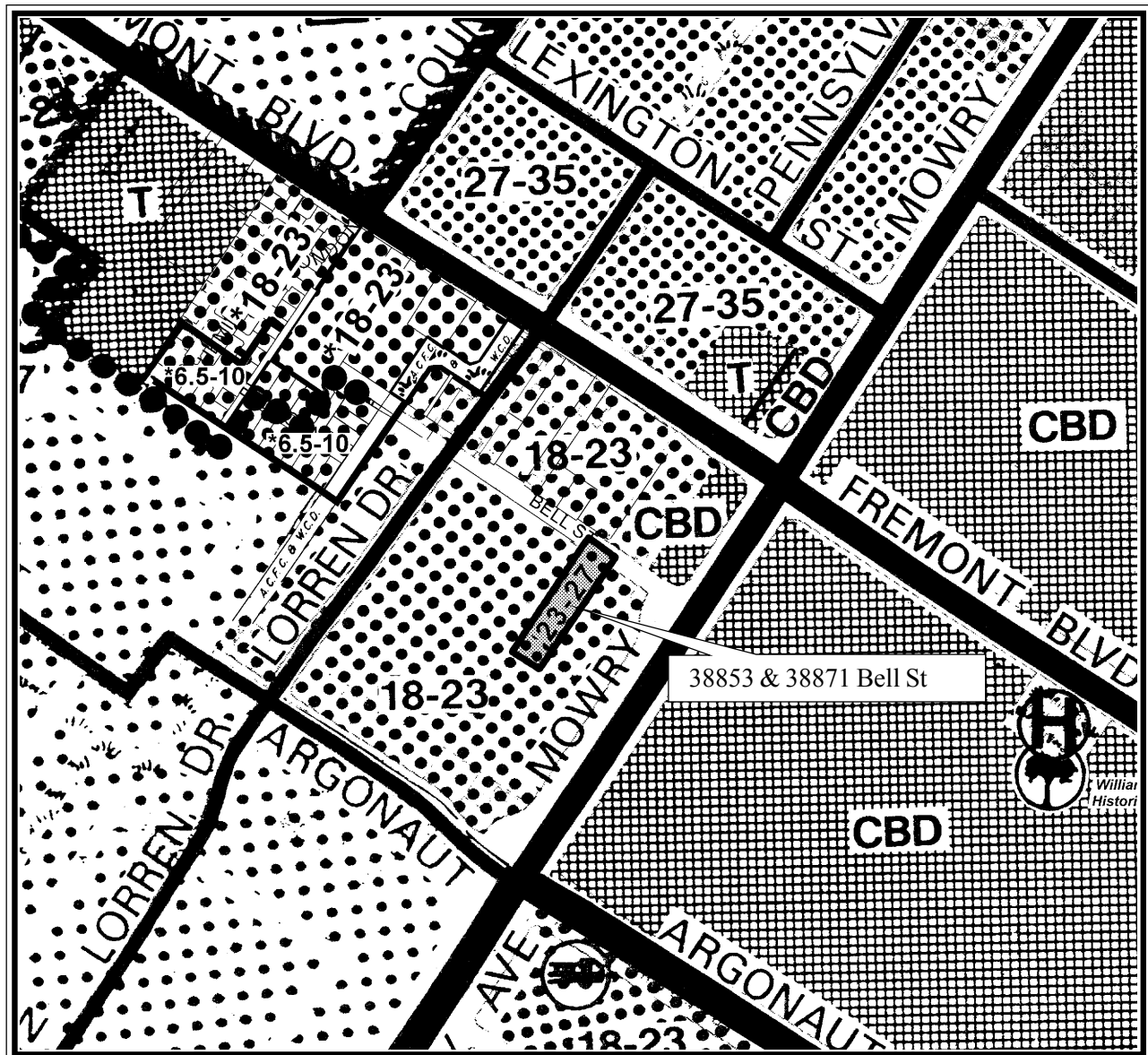
Attached to and made a part of

Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, 2005.

GENERAL PLAN LAND USE DIAGRAM (SECTION) AFFECTS LAND USE DIAGRAM(S) FOR THE CENTRAL PLANNING AREA



From: Residential, Med 18-23 du/ac

To: Residential, High 23-27 du/ac

[pc on 11-17-2005] 66-384

Project Name: Bell Manor

Project Number: PLN2005-00155 (GPA)



EXHIBIT "B"

Attached to and made a part of

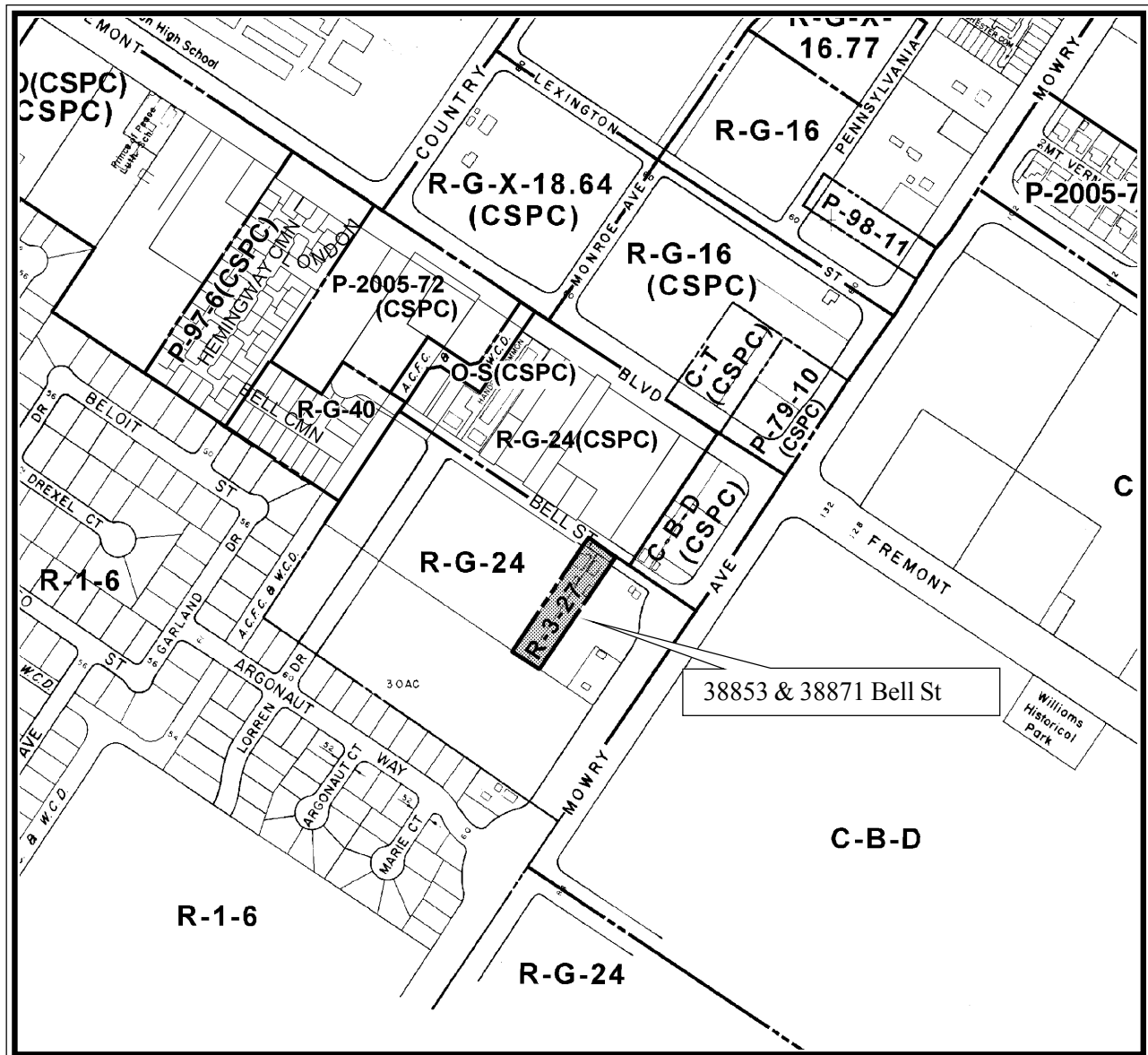
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, 20____.

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE CENTRAL PLANNING AREA



[pc on 11-17-2005] 66-384

From: R-G-24

To: R-3-27

Project Name: Bell Manor

Project Number: PLN2005-00155 (Rez)

Wink